

IN THE STATE COURT OF DEKALB COUNTY
GEORGIA STATE COURT

TIFFANY GORE, AN INDIVIDUAL,

Plaintiff,

v.

PAUL ZACHARIE LAMOREAUX AN
INDIVIDUAL, WHEATON VAN LINES,
INC., AN INDIANA CORPORATION, DBA,
WHEATON WORLD WIDE MOVING, AND
BRED A MOVING COMPANY, INC.,

Defendants.

CIVIL ACTION FILE
NUMBER 22A03975

JURY TRIAL DEMANDED.

DEFENDANTS' ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Paul Zacharie Lamoreaux (Lamoreaux), Wheaton Van Lines, Inc. d/b/a Wheaton World Wide Moving (Wheaton), and Breda Moving Company, Inc. (Breda) answer the First Amended Complaint for Damages and show the Court as follows:

INTRODUCTION

Plaintiff filed a complaint against Lamoreaux on 10/13/22 but did not serve Lamoreaux. Plaintiff filed an amended complaint on 1/4/23 naming Lamoreaux and the other named defendants. The first amended complaint is the operative complaint. However, to the extent an answer to the previously unserved original complaint is due and to the extent the original complaint contains the same allegations as the first amended complaint, Defendants adopt their responses to allegations to the first amended complaint and deny any remaining allegations in the original complaint.

FIRST DEFENSE

Defendants raise the defenses of statute of limitations and the doctrine of laches.

SECOND DEFENSE

There is an insufficiency of process and service of process as to Lamoreaux, Wheaton, and Breda.

THIRD DEFENSE

This Court lacks personal jurisdiction over Lamoreaux, Wheaton, and Breda.

FOURTH DEFENSE

Breda is not a proper party to this suit.

FIFTH DEFENSE

Defendants raise the defenses of comparative negligence and the avoidance doctrine.

SIXTH DEFENSE

Counts 3 & 4 of the First Amended Complaint fail to state a claim upon which relief may be granted.

SEVENTH DEFENSE

Lamoreaux, Wheaton, and Breda respond to the individually numbered paragraphs of the First Amended Complaint for Damages as follows:

PARTIES

1.

Lamoreaux, Wheaton, and Breda admit upon information and belief Plaintiff is a resident and citizen of Georgia. Lamoreaux, Wheaton, and Breda are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 1.

2.

Lamoreaux, Wheaton, and Breda admit Lamoreaux is a citizen and resident of the Illinois and lives at 2707 West Johnsburg Road, Johnsburg, Illinois. Lamoreaux, Wheaton, and Breda deny the remaining allegations in paragraph 2.

3.

Lamoreaux, Wheaton, and Breda admit Wheaton is an Indiana corporation with a principal place of business therein and is engaged in interstate commerce, and Wheaton may be served with a copy of the summons and complaint through its registered agent and chief executive officer, Mark J. Kirschner, at 8010 Castleton Road, Indianapolis, IN 46250. Lamoreaux, Wheaton, and Breda deny the remaining allegations in paragraph 3.

4.

Lamoreaux, Wheaton, and Breda admit Breda is an Illinois corporation with a principal place of business therein and is an interstate agent for Wheaton, and Breda may be served with a copy of the summons and complaint through its registered agent, Ryan P. Farrell, at 50 N. Virginia Street, Crystal Lake, IL 60014. Lamoreaux, Wheaton, and Breda deny the remaining allegations in paragraph 4.

5.

Lamoreaux, Wheaton, and Breda admit Lamoreaux operated a 2010 International Prostar under Wheaton's authority and in furtherance of its business. Lamoreaux, Wheaton, and Breda deny the remaining allegations in paragraph 5.

6.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 6.

7.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 7.

8.

Lamoreaux, Wheaton, and Breda admit the allegations in paragraph 8.

9.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 9.

FACTS

10.

Lamoreaux, Wheaton, and Breda admit Lamoreaux operated a 2010 International Prostar on January 29, 2021 and was making a left turn with a green light when the Plaintiff subsequently struck the truck at the intersection of Clairmont Road and Century Blvd in DeKalb County. Lamoreaux, Wheaton, and Breda deny the remaining allegations in paragraph 10.

11.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 11.

12.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 12.

13.

Lamoreaux, Wheaton, and Breda admit Lamoreaux operated a 2010 International Prostar under Wheaton's authority and in furtherance of its business. Lamoreaux, Wheaton, and Breda deny the remaining allegations in paragraph 13.

COUNT 1 - NEGLIGENCE
(AGAINST ALL DEFENDANTS)

14.

Lamoreaux, Wheaton, and Breda incorporate by reference herein their responses to paragraphs 1 to 13 of the First Amended Complaint for Damages.

15.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 15.

16.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 16.

17.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 17.

18.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 18.

19.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 19.

COUNT 2 – NEGLIGENCE PER SE
(AGAINST ALL DEFENDANTS)

20.

Lamoreaux, Wheaton, and Breda incorporate by reference herein their responses to paragraphs 1 to 19 of the First Amended Complaint for Damages.

21.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 21.

COUNT 3 – NEGLIGENT TRAINING, HIRING, RETENTION, SUPERVISION
(AGAINST WHEATON AND BRED)

22.

Lamoreaux, Wheaton, and Breda incorporate by reference herein their responses to paragraphs 1 to 21 of the First Amended Complaint for Damages.

23.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 23.

24.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 24.

25.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 25.

26.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 26.

COUNT 4 – VIOLATION OF FEDERAL MOTOR SAFETY REGULATIONS
(AGAINST ALL DEFENDANTS)

27.

Lamoreaux, Wheaton, and Breda incorporate by reference herein their responses to paragraphs 1 to 26 of the First Amended Complaint for Damages.

28.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 28.

29.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 29.

30.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 30.

COUNT 5 – RESPONDENT SUPERIOR
(AGAINST WHEATON AND BREDA)

31.

Lamoreaux, Wheaton, and Breda incorporate by reference herein their responses to paragraphs 1 to 30 of the First Amended Complaint for Damages.

32.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 32.

COUNT 6 – PUNITIVE DAMAGES
(AGAINST ALL DEFENDANTS)

33.

Lamoreaux, Wheaton, and Breda incorporate by reference herein their responses to paragraphs 1 to 32 of the First Amended Complaint for Damages.

34.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 34.

35.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 35.

COUNT 7 – DAMAGES
(AGAINST ALL DEFENDANTS)

36.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 36.

37.

Lamoreaux, Wheaton, and Breda are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37.

38.

Lamoreaux, Wheaton, and Breda are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38.

39.

Lamoreaux, Wheaton, and Breda are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39.

40.

Lamoreaux, Wheaton, and Breda deny the allegations in paragraph 40.

41.

Lamoreaux, Wheaton, and Breda deny all allegations in the Complaint and First Amended Complaint for Damages not specifically admitted above.

WHEREFORE, having fully answered, Lamoreaux, Wheaton, and Breda respectfully request all relief to which they are entitled under the law.

LAMOREAUX, WHEATON, AND BRED A DEMAND A JURY OF 12.

DENNIS, CORRY, SMITH & DIXON, LLP

/s/ John D. Dixon

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CERTIFICATE OF SERVICE

I electronically filed **DEFENDANTS' ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT** with the Clerk of Court using the Odyssey efileGA system which will send notification of such filing to the following:

Mohamad Ahmad, Esq.
Kermani Law Firm
1718 Peachtree St., NW
Suite 489
Atlanta, GA 30309

I served the document by United States mail in a properly-addressed envelope with adequate postage thereon, to the following non-Odyssey efileGA participants: None.

This 16th day of February, 2023.

/s/ Jonathan R. Gibson
JONATHAN R. GIBSON
For the Firm

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